**BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION**

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| In the Matter of the Nebraska Public Service Commission, on its own motion, to make adjustments to the universal service fund mechanism established in NUSF-26. | Application No. NUSF-50<br>Progression Order No. 3 |
| In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to investigate whether the zones established in Docket No. C-2516 are appropriate in light of NUSF-26 findings and conclusions. | Application No. C-3554/PI-112 |

**<u>Comments Of The Rural Independent Companies</u>**

The Rural Independent Companies (the "Companies")[1] hereby submit the following comments in the above-referenced dockets. The Companies appreciate the opportunity to submit comments in response to the February 13, 2007 order of the Nebraska Public Service Commission ("Commission"), the staff proposal attached thereto as Attachment A, and Attachments B and C detailing particular aspects of the staff proposal.

The Companies applaud the Commission for coordinating in this proceeding its consideration of the principal issues raised by these two heretofore separate dockets. Docket C-3554 sought to establish new pricing zones for unbundled network element loops ("UNE-Ls"), and a new UNE-L price within each new zone, in Qwest's service area. Docket NUSF-50, P.O. No. 2 sought to devise a new methodology for determining

[1] Arlington Telephone Company; The Blair Telephone Company; Cambridge Telephone Company; Clarks Telecommunications Co.; Consolidated Telephone Company; Consolidated Telco, Inc.; Consolidated Telecom, Inc.; Curtis Telephone Co.; Eastern Nebraska Telephone Company; Great Plains Communications, Inc.; Hartington Telecommunications Co., Inc.; Hershey Cooperative Telephone Company, Inc.; K&M Telephone Company, Inc.; Nebraska Central Telephone Company; Northeast Nebraska Telephone Company; Rock County Telephone Company; Stanton Telecom, Inc.; and Three River Telco.

the level of Nebraska Universal Service Fund ("NUSF") support provided to competitive local exchange carriers ("CLECs") who lease UNE-Ls from Qwest, as well as the amount of NUSF support that Qwest would forgo when a CLEC leases a UNE-L from Qwest. Because both Qwest and any CLEC leasing UNE-Ls from Qwest are simultaneously affected by the issues raised in both dockets, the Companies believe it is essential that the Commission consider these issues in an integrated fashion.

The Companies urge the Commission to also consider these issues in the context of the UNE-Ls provided to CLECs by Windstream at the same time as it considers them in the context of the UNE-Ls provided by Qwest, and to adopt a uniform methodology – for defining UNE-L pricing zones, for setting new UNE-L prices, for determining the level of NUSF support provided to a CLEC who leases UNE-Ls from the incumbent and for determining the amount of NUSF support the incumbent will forgo for each UNE-L it leases to a CLEC – that applies in both Qwest and Windstream service areas.

The February 13 staff proposal includes two alternative policy formulations, called Option A and Option B. Within Option A are two alternative zone configurations – a six-zone configuration and a four-zone configuration. In addition to the basic policy formulations presented in Option A and Option B, both Options include a number of auxiliary issues for comment by interested parties and for consideration by the Commission.

The Companies generally support the principles expressed in Option A of the staff proposal. Because of the intimate relationship between UNE-L prices and NUSF support amounts – for both CLECs and ILECs – the Companies believe the Commission should adopt geographical delineations for UNE-L pricing that are consistent with those it has already adopted for determining NUSF support. Specifically, the Companies support the proposal to align UNE-L pricing zones with the In-Town and Out-of-Town Support Areas defined in the Support Allocation Methodology ("SAM") adopted in the NUSF-26 proceeding, and to thus establish separate In-Town and Out-of-Town UNE-L zones.

One aspect in which UNE-L pricing methodology should differ from NUSF support methodology, however, is that whereas the Commission's NUSF methodology targets support to household locations (and thus excludes business locations), Federal Communications Commission rules prohibit the development of UNE pricing in a manner that discriminates among different classes of customers. The Companies believe the Commission should modify the calculation of "Maximum UNE-L Revenue at Current Rates" – in Line 3 of Attachments B and C to the staff proposal – to account for *all* Qwest lines – Residential and Business, retail and wholesale, and to not limit this result to revenue derived only from Qwest's retail Residential lines.

Further, the Companies believe the Commission should modify the manner in which it allocates Qwest's "Maximum UNE-L Revenue at Current Rates" between In-Town and Out-of-Town Support Areas for purposes of developing new UNE-L rates. As noted above, the development of UNE-L rates must account for the costs of serving both residential and business locations, but the allocation method used in the staff proposal, by relying on counts of households, ignores business locations, the vast majority of which are inside of In-Town Support Areas.

Regarding the staff proposal's methodology for calculating NUSF support for CLECs, the Companies share the concern expressed by Embarq in its May 24, 2006 comments in the NUSF-50, P.O. No. 2 proceeding that such methodology is not competitively neutral. Whereas the SAM permits ILECs to receive only partial recovery of loop costs from local service revenue and NUSF support, the February 13 staff proposal's methodology permits CLECs to fully recover loop costs from these same two revenue sources.

Further, the Companies ask the Commission to consider whether the principle of "porting" of NUSF support – according to which, whatever the amount of NUSF support the CLEC receives is forfeited in equal amount by the ILEC – is itself competitively neutral. In the context addressed by the February 13 staff proposal, CLECs competing in Out-of-Town portions of Qwest's service areas would receive NUSF support at a level that makes such competition financially viable. In contrast, the staff's methodology, if applied to Windstream service areas, would result in CLECs who compete in such areas receiving no NUSF support to offset their loop costs, as a consequence of the fact that Windstream itself receives no NUSF support. It does not appear to be competitively neutral that CLECs competing in Qwest service areas would receive NUSF support, while CLECs competing in Windstream service areas would not.

With respect to the additional issues raised on page 2 of the February 13 staff proposal, the Companies believe the Commission should not arbitrarily select particular UNE-L zones for eliminating, grandfathering or phasing out NUSF support to CLECs. As noted above, the Companies generally support the methodology of Option A, but urge the Commission to alter such methodology in light of the Companies' comments in the preceding paragraphs. The Companies believe the Commission should complete the design of a comprehensive methodology that applies throughout the service areas of both

Qwest and Windstream and should implement it as soon as possible, without making special exceptions.

Dated: April 17, 2007.

Respectfully submitted,
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## CERTIFICATE OF SERVICE

The original and five copies of the foregoing Comments of the Rural Independent Companies was hand delivered on April 17, 2007, to the Nebraska Public Service Commission, 1200 N Street, Suite 300, Lincoln, Nebraska 68508, with copies of such Comments mailed by first class mail, postage prepaid on the same date to:

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